



**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date and considering the parties' arguments, the Board concludes the preliminary hearing Order should be affirmed.

On September 2, 2004, claimant was working as a stockman for one of respondent's discount stores. Shortly after loading a heavy, unassembled computer desk into the back of a customer's car, claimant experienced pain in his right knee while walking across respondent's parking lot gathering shopping carts. Claimant stands 5'7" tall and weighs approximately 145 pounds. Claimant estimated the computer desk weighed 150 pounds or more.

Claimant reported his knee symptoms to respondent later that day. The next morning, claimant sought medical treatment at a Great Bend, Kansas, hospital emergency room. On September 3, 2004, claimant also completed a questionnaire used by respondent to evaluate workers compensation claims. In that form, claimant indicated he was unsure how the injury occurred as he was walking across respondent's parking lot "when it happen[e]d."<sup>1</sup> But claimant also indicated in the questionnaire that before he experienced the right knee pain he had lifted a television that weighed approximately 100 pounds and a 150-pound computer desk.

In short, claimant cannot be certain how the injury occurred but he readily believes it occurred while wrestling with the computer desk. The history of symptoms that claimant provided to his health care providers is generally consistent.

In analyzing this claim, Judge Moore stated, in part:

Well, I agree that Mr. Hudson has been fairly consistent with his description of events, the only discrepancy that I see is whether the pain onset was three minutes or 30 minutes or sometime in between after the activity of lifting the computer desk or the 29 inch television. But that doesn't show up for the first time, those lifting activities don't show up for the first time a month after the fact in the medical records, they show up the day after, in the Associate's Statement where he acknowledges that he was lifting the computer desk and TV prior to the onset of pain.

And if I could put myself in Mr. Hudson's position, I guess I can understand why he would have some question as to what had caused the onset of pain if he's just walking at the time that the pain began and he starts looking back in his mind to physical activities that might have put a strain on his knee and focuses on those

---

<sup>1</sup> P.H. Trans., Resp. Ex. B.

lifting activities done between 3 and 30 minutes before. In any event, at the time that he has the onset of pain he is pushing, using a cart pusher, but guiding a line of carts through the parking lot, and then he's having to guide those by pushing and pulling on the front cart, even though there's a motorized mechanism that pushes from behind. Whether it was guiding those carts that caused the injury or whether it was guiding those carts that was the straw that broke the camel's back and completed the injury suffered while lifting is more in the problems of the medical providers, but in the Court's view, the claimant has sustained his burden of proof that his knee injury more probably than not arose out of and in the course of his employment on September 2nd, 2004.

He has no prior knee injuries, he was involved in lifting activities that would certainly put a strain on his knee, and then has an onset of pain shortly thereafter, that is fairly dramatic, and there's nothing to indicate a personal risk or personal proclivity to a knee injury. This would all seem to derive from the demands and incidents of his employment.<sup>2</sup>

The Judge's analysis is sound. The Board adopts the Judge's findings and conclusions as its own.

**WHEREFORE**, the March 1, 2005, Order entered by Judge Moore is affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May, 2005.

---

BOARD MEMBER

c: Tamara J. Collins, Attorney for Claimant  
D. Steven Marsh, Attorney for Respondent and its Insurance Carrier  
Bruce E. Moore, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director

---

<sup>2</sup> P.H. Trans. at 58-60.